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6 Attorneys for Creditor  
U.S. Bank Trust National Association,  
7 As Trustee of Bungalow Series F Trust

8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF TEXAS – FORT WORTH

10 In re: ) Case No.: 18-43449-rfn13  
11 Annalisa Porcher, )  
12 Debtor. ) Chapter 13  
13 ) OBJECTION TO CONFIRMATION OF  
14 ) DEBTOR’S PLAN  
15 )  
16 ) Property: 2011 Longbranch Court  
17 ) Arlington, TX 76012  
18 )  
19 )  
20 )  
21 )  
22 ) The Honorable Judge Russell F. Nelms

1 TO THE HONORABLE JUDGE RUSSELL F. NELMS, UNITED STATES BANKRUPTCY  
2 JUDGE, THE DEBTORS, THEIR ATTORNEY OF RECORD AND THE CHAPTER 13  
3 TRUSTEE, TIM TRUMAN:

4 U.S. Bank Trust National Association, As Trustee of Bungalow Series F Trust,  
5 (“**Creditor**”), a secured creditor of the above-named Debtors hereby objects to the confirmation  
6 of Debtor’s Chapter 13 Plan (the “**Plan**”) on the grounds that the Plan does not comply with the  
7 provisions of Chapter 13 of Title 11, United States Code, and with other applicable provisions of  
8 said Title 11.

9 This objecting Creditor holds a deed of trust on the Debtor’s real property commonly  
10 described as 2011 Longbranch Court, Arlington, TX 76012 (the “**Property**”), which is Debtors’  
11 principal residence. Creditor is entitled to receive payments pursuant to a Promissory Note  
12 which is secured by a Deed of Trust on the subject property commonly known as 2011  
13 Longbranch Court, Arlington, TX 76012. As of 9/3/18, the approximate amount in default is  
14 \$177,693.80, as will be described in the forthcoming Proof of Claim which will be filed before  
15 the bar date by Creditor; Creditor files this Objection to protect its interests.

16 **I**

17 **ARGUMENT**

18 Application of the provisions of *11 United States Code Section 1325* determines when a Plan  
19 shall be confirmed by the Court. Based on the foregoing, as more fully detailed below, the Plan  
20 cannot be confirmed as proposed because the Plan does not comply with the provisions of  
21 Chapter 13 of the United States Bankruptcy Code.

22 **A. IMPERMISSIBLY MODIFIES CREDITOR’S RIGHTS**  
23 11 U.S.C. §1322(b)(2)  
24

1 Under 11 U.S.C. §1322(b)(2), a Plan that modifies the rights of a creditor whose claim is  
2 secured only by a security interest in real property that is debtor's principal residence is  
3 impermissible. The plan lists \$142,794.00 in arrears when the actual arrears are \$177,693.80.  
4 That reduction in arrears is an impermissible modification of Creditor's claim. Therefore, the  
5 Plan is not feasible.

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16 **B. DOES NOT MEET FULL VALUE REQUIREMENT**

17 11 U.S.C. §1325(a)(5)(B)(ii)

18 The Debtors' Plan does not provide for cure of the pre-petition arrears owed to  
19 Creditor. The pre-petition arrears owed to Creditor are no less than approximately  
20 \$177,693.80. Debtors' Plan does only provides for payment of \$142,794 in pre-petition  
21 arrears being paid to the creditor.

22 Accordingly, Debtors will be required to amend their Plan to fully provide for the pre-  
23 petition arrears owed to Creditor. Since Debtors' Plan does not provide for cure of the default  
24

1 of the pre-petition arrears owed to Creditor, the Plan does not meet the full value requirement  
2 and fails to satisfy 11 U.S.C. §1325(a)(5)(B)(ii).

3  
4 WHEREFORE, Creditor objects to confirmation of the Plan and requests as follows:

- 5 1. Confirmation of the Proposed Chapter 13 Plan be denied; or, in the alternative,
- 6 2. Debtor's plan be amended to reflect the arrears amount listed in Secured  
7 Creditor's filed proof of claim
- 8 3. For attorneys' fees and costs herein, and
- 9 4. For such other relief as this Court deems proper.

10 DATED: October 5, 2018 THE LAW OFFICES OF MICHELLE GHIDOTTI

11  
12 By: /s/ Kristin Zilberstein Esq.  
13 Kristin Zilberstein, Esq.  
14 Attorney for U.S. Bank Trust National Association,  
15 As Trustee of Bungalow Series F Trust  
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**Attorney for Movant,**  
U.S. Bank Trust National Association,  
As Trustee of Bungalow Series F Trust

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FT. WORTH DIVISION**

<b>IN RE:</b>	§ CASE NO.: 18-43449-rfn13
	§
<b>Annalisa Porcher,</b>	§ CHAPTER 7
	§
<b>DEBTORS,</b>	§ <b>CERTIFICATE OF SERVICE</b>
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**CERTIFICATE OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of eighteen and not a party to the within action. My business address is: 1920 Old Tustin Ave., Santa Ana, CA 92705.

I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service; such correspondence would

be deposited with the United States Postal Service the same day of deposit in the ordinary course of business.

On October 8, 2018 I served the following documents described as:

• **OBJECTION TO CONFIRMATION OF DEBTOR'S PLAN**

on the interested parties in this action by placing a true and correct copy thereof in a sealed envelope addressed as follows:

(Via United States Mail)

<b>Debtor</b> Annalisa Porcher 2011 Longbranch Court Arlington, TX 76012  <b>Debtor's Counsel</b> Christopher Marvin Lee Lee Law Firm, PLLC 8701 Bedford Eules Road Suite 510 Hurst, TX 76053  <b>Debtor's Counsel</b> Eric Allen Maskell Lee Law Firm, PLLC 8701 Bedford Eules Rd. Suite 510 Hurst, TX 76053	<b>Chapter 13 Trustee</b> Tim Truman 6851 N.E. Loop 820, Suite 300 N Richland Hills, TX 76180  <b>U.S. Trustee</b> United States Trustee 1100 Commerce Street Room 976 Dallas, TX 75242
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xx (By First Class Mail) At my business address, I placed such envelope for deposit with the United States Postal Service by placing them for collection and mailing on that date following ordinary business practices.

       Via Electronic Mail pursuant to the requirements of the Local Bankruptcy Rules of the Eastern District of California

xx (Federal) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 8, 2018 at Anaheim, California

/s/ Kristin A. Zilberstein  
Kristin A. Zilberstein